

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KATRIN A. MORGAN,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 3/9/2022

20-cv-7124 (NSR)(PED)

ORDER ADOPTING REPORT  
AND RECOMMENDATION

NELSON S. ROMÁN, United States District Judge:

Plaintiff Katrin A. Morgan (“Plaintiff”) commenced this action on September 1, 2020, pursuant to 42 U.S.C. § 405(g), challenging the decision of the Commissioner of Social Security (the “Commissioner”), which denied Plaintiff’s applications for disability insurance benefits. (ECF No. 1.) On January 27, 2022, Magistrate Judge Davison issued a Report and Recommendation, pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), recommending that Plaintiff’s motion for judgment on the pleadings be denied, and the Commissioner’s cross-motion for judgment on the pleadings be granted. (Report and Recommendation (“R&R”) ECF No. 38, at 1.) For the following reasons, the Court adopts MJ Davison’s R&R in its entirety.

**BACKGROUND**

Plaintiff seeks to challenge the Commissioner’s decision denying Plaintiff’s application for disability benefits. The Court assumes familiarity with the underlying facts and prior proceedings in this case, as set forth in the R&R.

Plaintiff commenced the instant action on September 1, 2020. (ECF No. 1.) Plaintiff filed a motion for judgment on the pleadings on June 11, 2021 (ECF No. 27), and an amended motion for judgment on the pleadings on September 9, 2021 (ECF No. 32.) The Commissioner filed a

cross-motion for judgment on the pleadings on November 8, 2021 (ECF No. 36). On November 15, 2021, MJ Davison issued the R&R recommending that this Court deny Plaintiff's motion and grant the Commissioner's motion. (ECF No. 38.) Neither party has filed written objections to the R&R.

### STANDARD OF REVIEW

A magistrate judge may "hear a pretrial matter dispositive of a claim or defense" if so requested by a district court. Fed. R. Civ. P. 72(b)(1); *accord* 28 U.S.C. § 636(b)(1)(B). In such a case, the magistrate judge "must enter a recommended disposition, including, if appropriate, proposed findings of fact." *Id.* Where a magistrate judge issues a report and recommendation,

[w]ithin fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.

28 U.S.C. § 636(b)(1); *accord* Fed. R. Civ. P. 72(b)(2), (3). However, "[t]o accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." *Wilds v. UPS*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)); *see also Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) ("[F]ailure to object timely to a magistrate's report operates as a waiver of any further judicial review of the magistrate's decision.") (quoting *Small v. Sec'y of HHS*, 892 F.2d 15, 16 (2d Cir. 1989)).

### DISCUSSION

Here, as neither party objected to the R&R issued by MJ Davison, the Court reviews the recommendation for clear error. After review of the R&R the Court finds no clear error. The

analysis and conclusions contained in the R&R are adopted in their entirety.

When evaluating a claim of disability, the administrative law judge (“ALJ”) is required to undertake a five-step procedure set out in the regulations governing the administration of Social Security benefits. 20 C.F.R. § 404.1520(a)(4). At the first step, the ALJ must determine whether the claimant is engaged in substantial gainful activity. 20 C.F.R. § 404.1520(a)(4)(i). If not, the second step requires the ALJ to consider the “medical severity” of the “physical or mental impairment.” 20 C.F.R. § 404.1520(a)(4)(ii). If the claimant does suffer such an impairment, the third step requires the ALJ to determine whether this impairment meets or equals one on the List of Impairments. 20 C.F.R. § 404.1520(a)(4)(iii). If the claimant’s impairment meets or equals one of those listed, the claimant is presumed to be disabled. *Id.* At the fourth step, the ALJ must consider the claimant’s residual functional capacity (“RFC”) and past relevant work. 20 C.F.R. § 404.1520(a)(4)(iv). All medical opinions must be evaluated for “their persuasiveness” based on the following five factors: supportability; consistency; relationship with the claimant; specialization; and “other factors.” 20 C.F.R. §§ 404.1520c(a)-(c), 416.920c(a)-(c). Lastly, if claimant is disabled, the ALJ must determine whether he or she can “make an adjustment to other work.” 20 C.F.R. § 404.1520(a)(4)(v).

Upon a review of the administrative record, MJ Davison determined that the ALJ’s review of Plaintiff’s RFC and the provided medical opinions was not erroneous. As stated more fully in the R&R, MJ Davison noted the RFC was based upon a review of the entire record, including objective testing, courses of treatment, subjective reports, and the opinions and treatment notes of several medical professionals. MJ Davison found that substantial evidence supported the ALJ’s decision, and therefore recommended the Court grant the Commissioner’s motion, upholding the decision.

**CONCLUSION**

For the reasons stated above, this Court adopts MJ Davison's R&R in its entirety. Plaintiff's motion for judgment on the pleadings is DENIED, and the Commissioner's cross-motion is GRANTED. The Clerk of Court is respectfully directed to issue a judgment in favor of the Commissioner, to terminate the motions at ECF Nos. 27, 32, & 36, and to close the case.

Dated: March 9, 2022  
White Plains, New York

SO ORDERED:



---

NELSON S. ROMÁN  
United States District Judge